



04-30-03 2172 #11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Ramprakash Sathyanarayan
Title: File Archival
Serial No.: 09/834,833 Filing Date: April 13, 2001
Examiner: HWANG, JOON H Group Art Unit: 2172
Docket No.: ORA010 US Confirmation No.: 4294

Box DAC
COMMISSIONER FOR PATENTS
Washington, D. C. 20231

Santa Clara, California
April 28, 2003

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Technology Center 2100

PETITION TO CONFIRM GOOD STANDING OF PATENT APPLICATION

Dear Sir:

Applicant respectfully petitions the Commissioner to confirm that the above-identified application remains in good standing. A check in the amount of \$130 for the petition fee as required by 37 CFR § 1.17(h) is attached hereto.

Applicant originally filed the above-identified US application on April 13, 2001, with a Request for Nonpublication Pursuant to 35 U.S.C. § 122(b)(2)(B)(i), and thereafter filed a PCT application PCT/US02/11707 on April 11, 2002, with the United States Receiving Office. One day after filing the PCT application, Applicant filed a "Request to Rescind Previous Nonpublication Request..." (the "Request") (copy attached as Exhibit A).

The undersigned spoke today with Ms. Monica L. Young at 703-308-1202 in the Office of Initial Patent Examination (OIPE) of the United States Patent and Trademark Office (USPTO). Ms. Young confirmed that the just-described Request had been received and entered, and that the nonpublication request had been in fact rescinded. Ms. Young also stated today that the application had not been abandoned, and that the PCT application was recorded in the computer system, as a "child" of the US application.

The Request in Exhibit A does not contain an indication of international filing of the above-identified application. Hence there is a question as to whether or not the above-identified US application remains in good standing, in view of a requirement in 35 U.S.C. §

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Serial No. 09/834,833

122(b)(2)(B)(iii) that the Director of the USPTO must be notified of international filing within 45 days.

Applicant submits that the notification of international filing required by 35 U.S.C. § 122(b)(2)(B)(iii) was made in the above-identified application through the filing of a letter (copy attached as Exhibit B) that was attached to the PCT application. The letter and the PCT application were both enclosed in an envelope addressed to the "Commissioner for Patents" (see copy of receipt and postcard attached as Exhibit C).

The letter in Exhibit B requested the USPTO (in its capacity as the Receiving Office) to grant a foreign transmittal license. In doing so, the letter explicitly identified the above-identified US application and stated that the information contained therein is "substantially identical" to that of the attached PCT application. Therefore, the USPTO (via its Receiving Office) was provided with notice by the letter in Exhibit B, that the above-identified application was being filed in the PCT. This notice was provided on the same day as the filing of the PCT application because all papers were transmitted in the same envelope (see Exhibit C). Not only was the USPTO notified of the PCT filing, in fact the USPTO acted on this notification by granting a foreign filing license on May 9, 2002 (as shown by Exhibit D). Moreover, the USPTO recorded in its computer system that the PCT application was a "child" of the US application, again proving that the Commissioner had received "actual notice" of the filing of the PCT application.

Accordingly, it is Applicant's belief that the above-identified patent application has not been abandoned and is still in good standing. Nevertheless, due to the above described questions, Applicant hereby requests the Granting of this Petition to Confirm Good Standing of Patent Application.

The fact that the letter in Exhibit B is addressed to the US Receiving Office should be irrelevant to the analysis of whether or not 35 U.S.C. § 122(b)(2)(B)(iii) is satisfied because all correspondence was in fact addressed to the Commissioner (see Exhibit C). To the extent the letter in Exhibit B does not satisfy any other rule of the USPTO, Applicant respectfully requests the Commissioner to retroactively waive such a rule (as of the date of filing of the letter). If such rules are waived, the letter in Exhibit B does in fact satisfy the international filing notice requirement in 35 U.S.C. § 122(b)(2)(B)(iii). Particularly pertinent in this regard is the fact that the PCT application was recorded in the computer system of the USPTO as a "child" of the US application, thereby proving actual notice.

In case the Commissioner decides that the above-identified application has been abandoned for failure to satisfy the foreign filing notice requirement of 35 U.S.C. § 122(b)(2)(B)(iii), Applicant respectfully requests this petition to be treated as a Petition to Revive an Unintentionally Abandoned Application. To the extent a notification of international filing is deemed to be still necessary, Applicant has stated above in this petition that a PCT application was filed on April 11, 2002. Moreover, the undersigned hereby states that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition is unintentional. If this petition is being treated as a Petition to Revive an Unintentionally Abandoned Application, then please charge any fee that may be required (such as \$1300) to the deposit account 50-2263 and in making the charge please use the attorney docket number ORA010 US.

If there are any questions or concerns, please call the undersigned at 408/982-8200, extension 3.

**Via Express Mail Label No.
ER 205 699 457 US**

Respectfully submitted,



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